

Remarks/Arguments

Claims 1-44 are and will continue to be pending in this application upon entry of this response. Claims 1, 5-7, 9-11, 15-24 and 27-44 have been amended herein. No additional fee is due at this time.

The Examiner has rejected claims 11 and 37 under 35 U.S.C. §101, stating that the claimed invention is directed to non-statutory subject matter. The Examiner has graciously made specific suggestions as to how to overcome this rejection. Applicants have amended claims 11 and 37 in accordance with the Examiner's recommendation. Applicants thank the Examiner for his willingness to assist in moving this application through prosecution.

The Examiner has rejected claims 1-11, 13, 16, 17, 19, 22, 31-33 and 35 under 35 U.S.C. § 102(b) as being anticipated by published U.S. Patent Application 2002/0055901 to Gianakouros et al. ("Gianakouros"). For a claim to be anticipated by a reference, "the **identical invention** must be shown in as **complete detail** as contained in the...claim," and that, "the elements must be arranged as required by the claim. . ." M.P.E.P. § 2131. It is impossible for Gianakouros to show the "identical invention" contained in Applicants' claims, because Gianakouros discloses a completely different kind of trading system than that disclosed and claimed in the present application. Gianakouros provides a system to bring two natural block trading customers together. The system of Gianakouros is simply a matching service. Prices in Gianakouros are determined by negotiation between the parties using the electronic system as an intermediary. The parties can enter maximum or minimum prices, but actual quotes are negotiated. See Gianakouros, paragraph [0025].

Applicants' invention, by contrast, obviates the need to search for and facilitate negotiations by providing an automated pricing mechanism that makes the dealer a party. More specifically, independent claims 1, 7, 11 and 31, as amended, all recite the provision of, or determining of, an *automated customized* quote or quotes. This concept is supported in the specification in multiple places, for example, paragraphs [0008], [0018] and [0019]. Again, for a claim to be anticipated, the identical invention must be shown in as complete detail as recited in the claim. The Examiner has pointed to Gianakouros, paragraphs [0024]-[0027]. As discussed above, this portion of Gianakouros discusses facilitating negotiations to obtain a price, teaching that is directly opposite of what Applicants claim. The Examiner has further cited paragraphs

[0035] and [0036] of Gianakouros, which refers only to price limits. Finally, the Examiner has cited paragraph [0075] of Gianakouros, which discloses either passively using the public bid/offer price, which is decidedly not customized, or using negotiations. Applicants' independent claims 1, 7, 11 and 31, as amended, are patentably distinguishable from Gianakouros for at least this reason.

The Examiner relies on Gianakouros for teaching corresponding to the base claims with respect to the rejection under Section 102 of dependent claims 2-6, 8-10, 13, 16, 17, 19, 22, 32-33 and 35. Thus, dependent claims 2-6, 8-10, 13, 16, 17, 19, 22, 32-33 and 35 are patentably distinguishable from Gianakouros for at least the same reason discussed above. However, with respect to dependent claims 3, 4 and 13, the claims recite that a historical characteristic of the security that the customized quote is based on can be the average spread, liquidity, and/or volatility. The Examiner looks to paragraph [0075] of Gianakouros for teaching related to this recitation, but no such teaching can be found there. These characteristics are not even mentioned or referred to in paragraph [0075] of Gianakouros. Dependent claims 3, 4 and 13 are patentably distinguishable from Gianakouros for at least this additional reason. Gianakouros cannot and does not anticipate claims 1-11, 13, 16, 17, 19, 22, 31-33 and 35.

The Examiner has rejected dependent claims 12, 14, 15, 18, 20 and 21 under 35 U.S.C. § 103(a) as obvious in view of Gianakouros in combination with Published U.S. Patent Application 2002/0004776 to Gladstone and further in combination with Published U.S. Patent Application 2003/0120585 to Rosenblatt. The Examiner bears the burden of factually supporting a conclusion of obviousness. M.P.E.P. § 2142. In order to establish the obviousness of a claim, the Examiner must show that teaching corresponding to *all* of the claim recitations are present in or suggested by the cited art. M.P.E.P. § 2143.03. The Examiner looks to Gianakouros for teaching corresponding to the base claims, and so these dependent claims are patentable for at least the same reasons discussed above with respect to claims 1, 7 and 11. However, dependent claims 12, 14, 15, 18 and 20 are not obvious for an additional reason. All these claims recite either directly or through dependency that the automated current quote is based in a discount that depends on a current position in the security. The Examiner looks to Rosenblatt for teaching corresponding to this recitation, however, none exists. Specifically, the Examiner points to paragraph [0004] of Rosenblatt, but Applicants cannot find any discussion there regarding basing

automated quotes on a dealer's current position in a security. Claims 12, 14, 15, 18 and 20 are patentable over the combination of Gianakouros, Gladstone and Rosenblatt for at least this additional reason.

The Examiner has rejected claims 23-27, 29, 37-41 and 43 under 35 U.S.C. § 103(a) as being obvious in view of Published U.S. Patent Application 2004/0128261 to Olavson in view of Gianakouros. Again, in order to establish the obviousness of a claim, the Examiner must show that teaching corresponding to *all* of the claim recitations is present in or suggested by the cited art. The Examiner has again failed to meet this burden. With respect to independent claims 23 and 37, these claims recite the use of a function that takes into account a profitability simulation to produce an automated customized quotation. The Examiner relies primarily on paragraphs [0118], [0126] and [0132]-[0134] of Ovalson as teaching these concepts. However, Olavson is not even related to quoting a *specific price for a security*, but rather forecasting *generic prices of a commodity*. The prices forecasted by Olavson are estimates and not quotes, they are decidedly not *customized*, and they do not rely on a profitability simulation. In fact the only mention of the terms "profit" or "profitability" in Olavson is related to assumptions relative to production costs and/or market share. The Examiner cites Gianakouros only for the concept of a block quantity. Independent claims 23 and 37 therefore cannot be obvious in view of Olavson and Gianakouros.

Claims 24-27, 29, 38-41 and 43 are dependent claims and are patentable over the combination of Olavson and Gianakouros for at least the same reasons discussed above. However, claims 25, 26, 37, 39 and 40 are also patentable for the additional reason that they recite that the customized quote is based on can be the average spread, liquidity, and/or volatility. The Examiner looks to Gianakouros for this teaching, and it is not present in Gianakouros, as previously discussed.

The Examiner has rejected claims 28, 30, 42 and 44 under 35 U.S.C. § 103(a) as being obvious in view of Olavson in combination with Gianakouros, and further in combination with Published U.S. Patent Application 2008/0015974 to Balabon. This claims are all dependent from one of the claims discussed above. The combination of Olavson and Gianakouros as applied to the base claims has already been discussed above, and claims 28, 30, 42 and 44 are patentable over the combination of Olavson, Gianakouros and Balabon for at least the same reasons given above. However, claims 28, 30, 42 and 44, as amended, each recite the use of *profitability*

constant. The Examiner relies on Balabon for teaching corresponding to this recitation, but merely points to a discussion of a client input desired profit margin, not a profitability constant. Claims 28, 30, 42 and 44 are patentable over the combination of Olvason, Gianakouros and Balabon for at least this additional reason.

The Examiner has rejected claims 34 and 36 under 35 U.S.C. § 103(a) as being obvious in view of Gianakouros in combination with Balabon, both as applied above with respect to similar recitations as contained in claims 34 and 36, either directly or through dependency. Claims 34 and 36 are patentable over the combination of Gianakouros and Balabon, for at least the same reasons discussed above with respect to the corresponding recitations.

Applicants have made amendments to some dependent claims which have not been specifically discussed above relative to those claims. Such amendments have been made for consistency and proper antecedent basis relative to base claims. Applicants trust that such amendments will meet with the Examiner's approval.

Applicants believe they have responded to the Examiner's concerns, and that the application is in condition for allowance. Reconsideration of this application as amended is hereby requested.

Respectfully submitted,

Date: May 7, 2008

Telephone: (919) 286-8000
Facsimile: (919) 286-8199



Steven B. Phillips
Attorney for Applicants
Registration No. 37,911
Moore & Van Allen PLLC
P.O. Box 13706
Research Triangle Park, NC 27709